

### REMARKS

As the Examiner will note, claims 1-3 and 5-9 have been amended and claim 4 has been cancelled. Accordingly, claims 1-3 and 5-9 are presently under consideration in the present application.

#### Rejection Under 35 USC 112

Claims 1-8 have been rejected by the Examiner under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. This rejection is respectfully traversed.

As the Examiner will note, original Claims 1-3 and 5-9 have been amended, taking into consideration, the comments made by the Examiner in paragraphs 2-6 of the Examiner's Office Action letter. Accordingly, it is believed that these rejections have been eliminated.

#### Rejections Under 35 USC 102 and 35 USC 103

Claims 1-3 and 5 are rejected under 35 USC 102(b) as being anticipated by Bemiss (US 3,716,370). Claim 4 is rejected under 35 USC 103(a) as being unpatentable over Bemiss. Claims 6-9 are rejected under 35 USC 103(a) as being unpatentable over Bemis in view of Applicants' Admitted Prior Art. These rejections are respectfully traversed.

#### Argument

In rejecting the claims of the present application over the prior art, it is the Applicants' position that considerable consideration must be made to the environment in which the invention is created as well as the problems which were confronted by the Applicants and the Applicants' solution to said problems. With this in mind, consideration must be made as to whether or not the problems solved in the prior art are related in any manner to the problems solved by the Applicants in arriving at the Applicants' inventive contribution. Considering the problems solved in the prior art strongly reflects on the logic of whether or not it would be obvious to one skilled in the art to combine the references to reject the claims of the present application.

In the present application, the Applicants had to confront the problem of contamination of a rim flange provided on a tray in which a food is baked, said contamination adversely affecting the sealing of the cooked food within the tray. Thus, during the cooking process, food and grease can be readily splashed on the top of the rim flange, contaminating the rim flange and, in some cases, interrupting an effective seal of the cooked food within the food tray. The problem is further complicated by the fact that the Applicants are desirous of utilizing both a food tray and a lid which can be made with paper board. The use of paper board has been found to be particularly advantageous when utilized in a baking environment and also provides the added advantage of the cost associated with cooking vessels which are made primarily of polymeric materials. Thus, according to the present invention, both the tray and the lid of the cooking package are made of a polymer-coated board whereby a double sealing line is achieved at the top of the rim flange and a further sealing line is provided underneath the flange which is free from exposure to contamination.

The Bemiss reference relied upon by the Examiner fails to disclose a tray which is used for baking food wherein the tray is closed after the baking operation is complete. Furthermore, the Bemiss reference describes a tray which is totally made of polyethylene and as such, does not represent a tray as defined by the present invention in which a paper board material is only coated with a polymeric material. In addition, the Bemiss reference is not trying to address a grease-contamination of the rim flange, as defined by the present invention, and this is understandable because there is no mention in the Bemiss reference concerning a food baking operation where the grease-contamination problem arises. Thus, the respective problems solved by the present invention on the one hand and the Bemiss reference on the other, are entirely different. As mentioned hereinabove, the present invention deals with a greasing problem which affects the use of the upper surface of the tray rim flange for sealing purposes. On the other hand, the Bemiss reference creates a triple-sealed structure specifically designed to allow the escape of steam from the interior of a food package while preventing penetration of water from the outside. This is completely irrelevant to the goal of the present invention.

The differences between the present invention and the teachings of the Bemiss reference can be further understood when considering the intended handling of the respective food packages. As discussed in the present application, the ready-made food package of the present invention may be heated in an oven, for instance a microwave oven, before the food is consumed. The food would be baked and then heated by the consumer in more or less similar oven temperatures, typically around 200°C. On the other hand, the package of the Bemiss reference is explicitly intended to be heated in hot boiling water (100 °C), causing the problem of water being drawn into the interior of the package. Food trays made of a paper board material are understandably not suited for such use for the reason that fibrous board would be readily wetted and destroyed in a hot water bath. With a polymer coating provided on both sides, the uncoated raw cutting edges would remain a problem. Clearly, one skilled in the art would not contemplate that the tray of the Bemiss reference could be effectively used for food baking. Thus, polyethylene, which is used for the tray in the Bemiss reference, would melt at oven temperatures and the complicated lid sealing as shown in Fig. 18 of the Bemiss reference, including seals 65 and 67 as well as the melting bead 68 which is made of an adhesive material for venting, would not find effective use in trays subjected to contaminated baking, oven temperatures. Accordingly, it is the Applicants' position that the teachings of the Bemiss reference can only be applied to the present invention by reconstructing the teachings of the references in view of the Applicants' own disclosure.

As will be noted by the Examiner, the subject matter of claim 4 has been introduced into amended claim 1 and as a result, it is believed that the rejection of the claims as being anticipated by the Bemiss reference has been eliminated. Furthermore, for all of the reasons set forth hereinabove, it is believed that the Bemiss reference as well as the prior art referred to in the specification of the present application certainly does not render obvious the Applicants' inventive contribution.

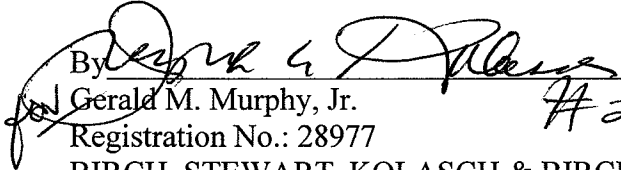
Accordingly, in view of the above amendments and remarks reconsideration of the rejections and allowance of all of the claims of the present application are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Joseph A. Kolasch, Registration No. 22463, at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

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Respectfully submitted,

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Attachment: Replacement Abstract of the Disclosure